

**Introduced by Senator Monning**

February 21, 2013

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An act to amend Sections 651 and 658.3 of the Harbors and Navigation Code, relating to vessels.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 427, as introduced, Monning. Vessels: equipment requirements: personal flotation devices.

(1) Existing law governs vessels and associated equipment used, to be used, or carried in vessels used on waters subject to the jurisdiction of this state, except as provided. For these purposes, existing law defines vessel to mean every description of watercraft used or capable of being used as a means of transportation on water, except as specified.

This bill would define vessel to mean every description of a watercraft or other artificial contrivance that is used or capable of being used as a means of transportation on water or is designed to be or is propelled on water by sail, mechanical means, power, oars or paddles, except as specified.

(2) Existing law requires a person under 13 years of age to wear a United States Coast Guard-approved personal flotation device when aboard a motorboat, sailboat, or vessel that is underway, except as provided. Existing law requires a person on board a personal watercraft or a person being towed behind a vessel on water skis, an aquaplane, or similar device to wear a United States Coast Guard-approved personal flotation device, except as provided. Existing law makes a violation of these requirements an infraction.

This bill would revise and recast these requirements by changing the type of United States Coast Guard-approved personal flotation device that a person is required to wear and the circumstances under which a

person is required to wear a personal flotation device. Because existing law makes a violation of these requirements an infraction, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 651 of the Harbors and Navigation Code  
2 is amended to read:

3 651. As used in this chapter, unless the context clearly requires  
4 a different meaning:

5 (a) "Alcohol" means any form or derivative of ethyl alcohol  
6 (ethanol).

7 (b) "Alcohol concentration" means either grams of alcohol per  
8 100 milliliters of blood or grams of alcohol per 210 liters of breath.

9 (c) "Associated equipment" means any of the following,  
10 excluding radio equipment:

11 (1) Any system, part, or component of a boat as originally  
12 manufactured or any similar part or component manufactured or  
13 sold for replacement, repair, or improvement of the system, part,  
14 or component.

15 (2) Any accessory or equipment for, or appurtenance to, a boat.

16 (3) Any marine safety article, accessory, or equipment intended  
17 for use by a person on board a boat.

18 (d) "Boat" means any vessel that is any of the following:

19 (1) Manufactured or used primarily for noncommercial use.

20 (2) Leased, rented, or chartered to another for the latter's  
21 noncommercial use.

22 (3) Engaged in the carrying of six or fewer passengers, including  
23 those for-hire vessels carrying more than three passengers while  
24 using inland waters of the state that are not declared navigable by  
25 the United States Coast Guard.

26 (4) Commercial vessels required to be numbered pursuant to  
27 Section 9850 of the Vehicle Code.

1 (e) “Chemical test” means a test that analyzes an individual’s  
2 breath, blood, or urine, for evidence of drug or alcohol use.

3 (f) “Controlled substance” means controlled substance as defined  
4 in Section 11007 of the Health and Safety Code.

5 (g) “Department” means the Department of Boating and  
6 Waterways.

7 (h) “Director” means the Director of Boating and Waterways.

8 (i) “Drug” means any substance or combination of substances  
9 other than alcohol that could so affect the nervous system, brain,  
10 or muscles of a person as to impair to an appreciable degree his  
11 or her ability to operate a vessel in the manner that an ordinarily  
12 prudent person, in full possession of his or her faculties, using  
13 reasonable care, would operate a similar vessel under like  
14 conditions.

15 (j) “Intoxicant” means any form of alcohol, drug, or combination  
16 thereof.

17 (k) “Legal owner” is a person holding the legal title to a vessel  
18 under a conditional sale contract, the mortgagee of a vessel, or the  
19 renter or lessor of a vessel to the state, or to any county, city,  
20 district, or political subdivision of the state, under a lease,  
21 lease-sale, or rental-purchase agreement that grants possession of  
22 the vessel to the lessee for a period of 30 consecutive days or more.

23 (l) “Manufacturer” means any person engaged in any of the  
24 following:

25 (1) The manufacture, construction, or assembly of boats or  
26 associated equipment.

27 (2) The manufacture or construction of components for boats  
28 and associated equipment to be sold for subsequent assembly.

29 (3) The importation into this state for sale of boats, associated  
30 equipment, or components thereof.

31 (m) “Marine employer” means the owner, managing operator,  
32 charterer, agent, master, or person in charge of a vessel other than  
33 a recreational vessel.

34 (n) “Motorboat” means any vessel propelled by machinery,  
35 whether or not the machinery is the principal source of propulsion,  
36 but shall not include a vessel that has a valid marine document  
37 issued by the United States Coast Guard or any federal agency  
38 successor thereto.

39 (o) “Operator” means the person on board who is steering the  
40 vessel while underway.

(p) “Owner” is a person having all the incidents of ownership, including the legal title, of a vessel whether or not that person lends, rents, or pledges the vessel; the person entitled to the possession of a vessel as the purchaser under a conditional sale contract; or the mortgagor of a vessel. “Owner” does not include a person holding legal title to a vessel under a conditional sale contract, the mortgagee of a vessel, or the renter or lessor of a vessel to the state or to any county, city, district, or political subdivision of the state under a lease, lease-sale, or rental-purchase agreement that grants possession of the vessel to the lessee for a period of 30 consecutive days or more.

(q) “Passenger” means every person carried on board a vessel other than any of the following:

(1) The owner or his or her representative.

(2) The operator.

(3) Bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their services.

(4) Any guest on board a vessel that is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for his or her carriage.

(r) “Person” means an individual, partnership, firm, corporation, limited liability company, association, or other entity, but does not include the United States, the state, or a municipality or subdivision thereof.

(s) “Personal watercraft” means a vessel 13 feet in length or less, propelled by machinery, that is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

(t) “Recreational vessel” means a vessel that is being used only for pleasure.

(u) “Registered owner” is the person registered by the Department of Motor Vehicles as the owner of the vessel.

(v) “Special-use area” means all or a portion of a waterway that is set aside for specified uses or activities to the exclusion of other incompatible uses or activities.

(w) “State” means a state of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

(x) “State of principal use” means the state on which waters a vessel is used or intended to be used most during a calendar year.

(y) “Undocumented vessel” means any vessel that is not required to have, and does not have, a valid marine document issued by the United States Coast Guard or any federal agency successor thereto.

(z) “Use” means operate, navigate, or employ.

(aa) “Vessel” includes every description of a watercraft *or other artificial contrivance that is used or capable of being used as a means of transportation on water, except water or is designed to be propelled on water by sail, mechanical means, power, oars, or paddles.* “Vessel” does not include either of the following:

(1) A seaplane on the water.

(2) A watercraft specifically designed to operate on a permanently fixed course, the movement of which is restricted to a fixed track or arm to which the watercraft is attached or by which the watercraft is controlled.

(bb) “Water skis, an aquaplane, or a similar device” includes all forms of water skiing, barefoot skiing, skiing on skim boards, knee boards, or other contrivances, parasailing, ski kiting, or any activity where a person is towed behind or alongside a boat.

(cc) “Waters of this state” means any waters within the territorial limits of this state.

SEC. 2. Section 658.3 of the Harbors and Navigation Code is amended to read:

658.3. (a) A person shall not operate a motorboat, sailboat, or vessel that is 26 feet or less in length, *or a vessel that is more than 26 feet in length and has an open cockpit*, unless every person on board who is under 13 years of age is wearing a ~~type I, II, III, or~~ Coast Guard-approved personal flotation device *in serviceable condition and of a type and size appropriate for the conditions and the activity being engaged in* while that motorboat, sailboat, or vessel is underway, *moored, or at anchor.*

(b) Subdivision (a) does not apply to a person operating a sailboat on which a person who is under 13 years of age is restrained by a harness tethered to the vessel, or to a person operating a vessel on which a person who is under 13 years of age is in an enclosed cabin.

(c) A person on board a personal watercraft or a person being towed behind a vessel on water skis, an aquaplane, or similar device, except for an underwater maneuvering device intended for

1 use by a submerged swimmer, shall wear a ~~type I, II, III, or V~~  
2 Coast Guard-approved personal flotation device *in serviceable*  
3 *condition and of a type and size appropriate for the conditions*  
4 *and the activity being engaged in*. An underwater maneuvering  
5 device is a towed or self-powered apparatus that a person can pilot  
6 through diving, turning, and surfacing maneuvers that is designed  
7 for underwater use.

8 (1) This subdivision does not apply to a person aboard a personal  
9 watercraft or a person being towed behind a vessel on water skis,  
10 if that person is a performer engaged in a professional exhibition,  
11 or preparing to participate or participating *with authorization*  
12 *pursuant to a United States Coast Guard permit or other permit*  
13 *granted pursuant to subdivision (a) of Section 268* in an official  
14 regatta, marine parade, tournament, or exhibition.

15 (2) In lieu of wearing a Coast Guard-approved personal flotation  
16 device ~~of a type~~ *as described in this subdivision*, a person engaged  
17 in slalom skiing on a marked course or a person engaged in  
18 barefoot, jump, or trick waterskiing may elect to wear a wetsuit  
19 designed for the activity and labeled by the manufacturer as a water  
20 ski wetsuit. A Coast Guard-approved personal flotation device ~~of~~  
21 ~~a type~~ *as described in this subdivision* shall be carried in the tow  
22 vessel for each skier electing to wear a water ski wetsuit pursuant  
23 to this paragraph.

24 (d) The requirements set forth in subdivisions (a) and (c) do not  
25 apply to a person *13 years of age or older* operating a motorboat,  
26 sailboat, or vessel if the ~~operator is reacting to~~ *vessel is engaged*  
27 *in an emergency rescue situation*.

28 (e) The following definitions govern the construction of this  
29 section:

30 (1) “Enclosed cabin” means a space on board a vessel that is  
31 surrounded by bulkheads and covered by a roof.

32 (2) “Operate a motorboat, sailboat, or vessel” means to be in  
33 control or in charge of a motorboat, sailboat, or vessel while it is  
34 underway.

35 (3) “Underway” means all times except when the motorboat,  
36 sailboat, or vessel is anchored, moored, or aground.

37 (f) A violation of this section is an infraction punishable as  
38 provided in subdivision (a) of Section 668.

39 SEC. 3. No reimbursement is required by this act pursuant to  
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school  
2 district will be incurred because this act creates a new crime or  
3 infraction, eliminates a crime or infraction, or changes the penalty  
4 for a crime or infraction, within the meaning of Section 17556 of  
5 the Government Code, or changes the definition of a crime within  
6 the meaning of Section 6 of Article XIII B of the California  
7 Constitution.

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